In the High Court of Punjab and Haryana at Chandigarh.

Civil Writ Petition No.6885 of 1991.

Date of decision:7-12-2007.

Block Development and Panchayat Officer, Kalayat, District Jind.

...Petitioner.

Versus

Jagir Singh and others.

...Respondents.

...

Coram: Hon'ble Mr. Justice K. C. Puri.

...

Present: Mr. Sidharath Batra, AAG Punjab.

Mr. B.B.Aggarwal Advocate for respondent No.1.

...

K. C. Puri, J.

Judgment.

This writ petition has been preferred by Block Development and Panchayat Officer, Kalayat, District Jind (hereinafter to be referred to as the employer) for quashing the award dated 6.7.1988 passed by the Presiding Officer, Labour Court, Ambala.

It is pleaded that respondent No.1 was appointed as a Jeep Driver in the office of Block Development and Panchayat Officer, Kalayat on 1.11.1983 on daily wages at Deputy Commissioner's rates subject to the approval of the Deputy Commissioner. His appointment was up to 29.2.1984 or till the new incumbent joined either by way of transfer or

appointment. Vide letter dated 27.6.1984, the respondent No.1 was appointed on ad hoc basis keeping in view the fact that he belonged to Scheduled Caste and was ex-serviceman. Approval of his appointment was accorded by the Deputy Commissioner. The respondent No.1 was appointed on ad hoc basis and his services were liable to be terminated without any notice as per letter dated 16.1.1985.

It is further pleaded that one Partap Singh was transferred by the Government at Kalayat in place of Jagir Singh, respondent No.1 on 9.9.1985. The services of respondent No.1 were terminated on the appointment of Dharambir as Jeep Driver.

It is also pleaded that respondent No.1 made reference under Section 10(1)(c) of the Industrial Disputes Act. That was decided in favour of respondent No.1 on the ground that retrenchment compensation was not paid and the order of termination was violative of Sections 25-F and 25-H of the Industrial Disputes Act. The Block Development and Panchayat Department was not an industry within the meaning of clause 2(j) of the Industrial Disputes Act and the respondent No.1 was not a workman under the said Act. The Labour Court vide order dated 6.7.1988 allowed the claim of respondent No.1. It is further pleaded that the said award is liable to be set aside as respondent No.1 was not a workman and was working on daily wages and thereafter on ad hoc basis. The termination of respondent No.1 was not retrenchment within the meaning of Section 2(oo) of the Industrial Disputes as sub clause (bb) of clause (o) of Section 2 of the Act is attracted and as such the provisions of Section 25-F cannot be made applicable.

The writ petition has been opposed.

The learned counsel for the petitioner has argued on the lines of pleadings and has submitted that respondent No.1 was working on ad hoc basis. The provisions of Section 2(oo)(bb) are attracted. The termination of services of respondent No.1 was on account of non-renewal of contract of employment between the employer and the workman after the expiry of contract and as such the same does not fall within the definition of retrenchment. So, it cannot be said that the order of termination attracts Section 25-F as observed by the Labour Court. It is further submitted that the petitioner is not an industry and respondent No.1 is not a workman and as such the learned Labour Court has wrongly passed the award against the petitioner.

The counsel for respondent No.1 has supported the judgment of the Labour Court and has relied upon authority reported as **Balbir Singh Versus The Kurukshetra Central Co-op Bank and another,** 1989 S.L.J.307 and **Management of Haryana Urban Development Authority, Haryana Versus Neelam Kumari,** 1993(4) SCT 676 (DB).

I have carefully considered the submissions made by both sides and have gone through the record of the case.

The first point for consideration is whether the petitioner is not an industry within the meaning of Industrial Disputes Act and that respondent No.1 is not a workman. **Neelam Kumari's** case (supra) is the complete answer to that proposition of law. In that case, the Haryana Urban Development Authority was held to be an industry and workman who has completed 240 days has been treated as a workman on regular basis,although he may be on ad hoc basis. In the said authority, it has been

held that only sovereign and crown's acts have been exempted from the definition of 'Industry'. It has been further observed that the object of the Act is to secure the rights of weaker section of the Society and pre-empt the industrial tension,enhancing industrial production by settlement of industrial disputes without indulging in lengthy civil litigation and to provide social justice to illiterate workers free from technicalities. In authority in **Balbir Singh's** case (supra), it has been held that if a workman continuously completed 240 days even with notional break in a year preceding the date of termination, he will be treated as a regular employee and his service cannot be terminated without complying with the provisions of Section 25F. Admittedly, there is non compliance of Section 25F and as such the learned Labour Court has rightly held that workman is entitled for reinstatement along with benefits of back wages and continuity in service.

So far as submission made by the learned counsel for the petitioner that Section 2(oo)(bb) of the Industrial Disputes Act shall be attracted is concerned, that submission is without substance in view of authority in **Balbir Singh's** case (supra). Respondent No.1, even according to the petition, was working with the petitioner from 1.11.1983 till his services were terminated.

One another circumstance which militates against the case of the petitioner is that the person appointed against the post of respondent No.1 was also appointed on ad hoc basis. No regular employee has been appointed in place of respondent No.1. So, the termination order is bad on that count also. The position would have been different in case a regular employee had been appointed in place of respondent No.1.

In view of the above discussion, the petition is without any merit and the same stands dismissed.

December 7 ,2007. (K. C. Puri)
Jaggi Judge